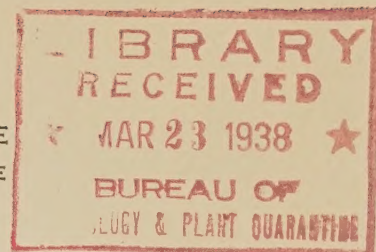


Historic, Archive Document

Do not assume content reflects current scientific knowledge, policies, or practices.

1.9
En 86 A

UNITED STATES DEPARTMENT OF AGRICULTURE
BUREAU OF ENTOMOLOGY AND PLANT QUARANTINE
WASHINGTON, D. C.



March 17, 1938.

WHAT IS WRONG WITH QUARANTINE NO. 37?

BY

LEE A. STRONG, CHIEF OF BUREAU

In answer to the question, "What is wrong with Quarantine No. 37?", it may be said that, while there are certain features in the quarantine itself which need correction, the principal objections are centered in the supplemental regulations and certain procedures that were developed in the early periods of its administration and which, with modification, have persisted to the present time. In order to better understand the more detailed reply to follow to the question which forms the title of these remarks, it is necessary to examine the first seven sections of the Plant Quarantine Act of 1912, as amended.

Provisions of the Plant Quarantine Act:

Section 6* of this Act defines the term "nursery stock" as including "all field-grown florists' stock, trees, shrubs, vines, cuttings, grafts, scions, buds, fruit pits and other seeds of fruit and ornamental trees or shrubs, and other plants and plant products for propagation, except field, vegetable, and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots."

Provision exists in Section 7* of the Act for the Secretary of Agriculture to cause the exclusion of any class of nursery stock as thus

¹ All references to "section," "the Act," or "the Plant Quarantine Act" are to the Plant Quarantine Act of 1912, as amended.

All references to "the quarantine," "Quarantine No. 37," or to "regulations" refer to Notice of Quarantine No. 37 (Nursery Stock, Plant, and Seed Quarantine) and the revised rules and regulations supplemental thereto.

* See footnote 1.

defined or of any other class of plants or plant products whenever he shall have determined that it is necessary to exclude those plants or plant products from importation into this country in order to prevent the introduction of an injurious pest. His determination of the necessity, in the form of a quarantine notice, after due public hearing, makes it unlawful to import the "quarantined" plant or plant product for any purpose whatever except by the Department of Agriculture for experimental or scientific purposes. The power of exclusion is in the Act itself. The action of the Secretary of Agriculture merely invokes it. No provision exists under the authority contained in Section 7* to provide for restricted entry.

Sections 1 and 3* of the Act provide for the entry of nursery stock (as defined) under the following conditions: (1) A permit for the entry must have been issued by the Secretary of Agriculture under such conditions as he may prescribe; (2) each shipment must be accompanied by a certificate, in manner and form as required by the Secretary of Agriculture, and issued by a proper official of the country from which the importation is made, to the effect that it has been thoroughly inspected and is believed to be free of pests; and (3) the containers must be marked in a specified manner. The authority delegated by these sections of the Act for prescribing control over the entry of plants is confined to entry conditions and does not authorize any control over importations once they have been inspected and legally entered. The Act, as shall be shown, does prescribe certain conditions for interstate shipment after entry. Authority is implied in these sections under which the Secretary may require that importations shall be free of pests and it is within his province to cause inspection to be made to determine compliance with this requirement. He also may require entry to be made at specified ports in order that such inspection may be given the importations. When the conditions prescribed by the Act have been met, it is mandatory for the Secretary of Agriculture to issue a permit for any particular importation of nursery stock. This requirement which is contained in Section 1* is in conflict with another requirement in the same section which stipulates that "it shall be unlawful for any person to import or offer for entry into the United States any nursery stock unless and until a permit shall have been issued therefor by the Secretary of Agriculture." Obviously it was impossible to carry out simultaneously both of these conflicting requirements and hence, when the regulations supplemental to Quarantine No. 37 were drafted, regulation 4* prescribed the issuance of a permit in advance of the arrival of a shipment, insofar as practicable.

Moreover, under Section 1*, the Secretary may prescribe regulations to govern the entry of nursery stock from countries not maintaining official systems of inspection and for importations, by the Department of Agriculture, for experimental or scientific purposes.

* See footnote, page 1.

It is required in Section 2* that a notice shall be given upon the arrival of a shipment of nursery stock at a port of entry and that, before such stock is removed from the port of entry, a notice of shipment shall also be given by the importer or his agent. No subsequent interstate movement of an importation of nursery stock may be made until either such notice of shipment has been given or the stock has been inspected by a proper State official. Importations of nursery stock moving interstate must also be marked in the manner specified in Section 4* unless and until inspected by a proper State official.

Under the provisions of Section 5*, whenever the Secretary of Agriculture shall determine that the unrestricted importation of any plant or plant product not defined as "nursery stock" may result in the entry of injurious pests, he shall, after calling a public hearing, promulgate his determination, specifying the class of plants or plant products to be restricted and the country or countries where they are grown. Thereafter, or until such promulgation is withdrawn, these materials are enterable only under the conditions laid down in Sections 1 to 4 inclusive* of the Act for nursery stock as defined.

Scope and Inadequacies of Quarantine No. 37

After this introduction, it will be apparent that, after the public hearing held on May 28, 1918, the Secretary of Agriculture, by his promulgation of November 18, 1918, commonly known as Nursery Stock, Plant, and Seed Quarantine No. 37, brought field, vegetable, and flower seeds, bedding plants, and other herbaceous plants, bulbs, and roots, and other plants and plant products for, or capable of, propagation, under the restrictions of entry applicable to "nursery stock" as defined in the Act.

There appears to be little wrong with the fundamental intention of this promulgation. It is subject to the criticism that its scope is not broad enough to accomplish the pest-protection safeguards which the public safety may demand. No steps have ever been taken, either with respect to Quarantine No. 37, as would be logical, or with any other quarantine, to bring certain plant products incapable of propagation, generally and as such, under restriction. To illustrate, possibly there may be another disease, transmissible with logs, comparable in its destructive potentialities to the Dutch Elm Disease, which could knock at our doors and we should be again legally without authority to safeguard against it until specific quarantine action had been taken because the Department has not acted to bring logs, and lumber and timber with bark adhering, under the restrictions of the Act. Beetles and other bark inhabiting insects are frequently found in such material and we might find an additional tax upon the national income if they were to become established here. We are daily examining cut flowers and decorative plant materials incapable of propagation that are being imported

* See footnote, page 1.

without restriction because they have never been brought under restriction. The list of pests found on these is rapidly becoming a subject for serious concern. They should be brought under restriction. It is senseless to continue with respect to such materials on the basis of whether or not they are capable of propagation when pests may enter on them regardless of that distinction.

From the foregoing it is apparent that the time has arrived when thoughtful consideration should be given to the revision of the regulations supplemental to Quarantine No. 37 and the procedures which have been followed in their administration to bring them in line with the law. These problems involved can be grouped into two principal categories, one of which pertains to policies of administration principally, while the other is of certain either illegal or unsatisfactory features of the regulations themselves. Under the first group we shall discuss, in the order named: (1) Limitations placed on the quantities of certain plants that may be imported; (2) limitations placed on the utilization to be made of imported plants; (3) delayed release of imported material; (4) the horticultural qualifications of an applicant for a permit to import; and (5) the limitations placed on the entry of certain kinds of plants because of their purportedly sufficient occurrence in this country. The second group of problems will be discussed following the discussion of these features.

Quantity Limits

Regulation 1* of the quarantine defines "limited quantities" (as used in regulation 14*) as "such quantities as will supply any reasonable need for the establishment of commercial reproduction plantings or as may be necessary for the experimental, educational, or scientific purpose intended." Regulation 14* provides for the entry in "limited quantities" of such nursery stock and other plants and seeds as are not covered by other regulations of Quarantine No. 37, or by other special quarantines, for certain purposes specified therein.

It has been frequently noted that Quarantine No. 37 voiced the policy of practical exclusion of plants, if pests were to be excluded. The feature limiting the quantity of plants that can be imported is consonant with that policy. But note what has happened in the effort to restrict importations by establishing the quantity limitations for any individual's imports.

It soon became apparent, as the procedure for enforcing the provisions of Quarantine No. 37 was being developed, that one importer might wish to place certain of his importations with another, that the importations might be grown under more favorable conditions. A contract form, signed by the importer and by the one to propagate the imported plants and filed with the Department gained the sanction of the Department for this arrangement. In recent years, and particularly during the

* See footnote, page 1.

current fiscal year, certain importers have resorted to this contractual arrangement to such an extent as to demonstrate conclusively that quantity limits do not limit in the sense originally intended. In certain flagrant instances, scores of applicants have each requested permits to import the limit of a kind of plant, filing contracts signed by themselves as permittees and by the same agent or propagator, thereby raising a strong suspicion that, as applicants, they were merely acting as "dummies" and that the "agent" or propagator in reality was importing quantities in one case as much as 80 times that which he would be permitted under the present quantity restrictions to import in his own name.

Provision exists in regulation 3* for the entry of certain materials covered by that regulation, in limited quantities, from countries not maintaining an official inspection system. Reference to this provision of regulation 3* occurs in regulation 4*. This provision of regulation 3* and the restriction of regulation 14*, which has just been described, are not to be confused. No provision exists in the Plant Quarantine Act for limiting, as a strictly pest-protection measure, the quantities of plants that may be imported when properly certified as to freedom from pests by an official of the country of export. Therefore, the restriction of regulation 14* appears to be without authority in law. The provision of regulation 3*, for limiting certain materials from countries without official inspection systems, is warranted by that proviso of the Act which authorizes the Secretary of Agriculture to prescribe the conditions under which nursery stock may be imported from such countries.

It is submitted that, regardless of the legal status of each of the above set-out limitations as to quantity, neither is essential for the proper safeguarding against the entry of injurious plant pests. We have seen that the quantity limit restriction of regulation 14* can be circumvented. The quantities of materials offered for entry under regulation 3* from countries without official inspection systems are so small in comparison to the quantities of like commodities from countries with inspection systems, that adequate inspection is possible of all shipments originating in countries which do not have official systems of inspection. It is contended that no limitations as to quantities, beyond those imposed by our physical abilities to inspect promptly and safeguard adequately, should be imposed, because the purpose of the Plant Quarantine Act under which Quarantine No. 37 was promulgated is one solely of pest protection.

Utilization of Imports

Regulation 14* provides for the entry of certain plants, bulbs, etc., in limited quantities "for the purpose of keeping the country supplied with new varieties and necessary propagating stock" (i.e., for propagation), "or for any necessary experimental, educational, or scien-

* See footnote, page 1.

tific purpose." Such purposes came to be referred to, over a period of years, as "public-service purposes." This may account for the language of the provision of regulation 3* for the entry of certain materials covered by that regulation, from countries without official inspection systems, in limited quantities "for public-service purposes only." These restrictions, like the limitations as to quantity, are consistent with the announced purpose of Quarantine No. 37 to reduce the risk of introducing pests by reducing imports. Detailed study of the language of the Plant Quarantine Act leads to serious question that there is authority in that Act for prescribing the purpose for which an importation shall be used. Moreover, it is impossible for the Department to judge accurately, with fairness to all, what is necessary propagating stock or what is a necessary experimental, educational, or scientific purpose. Any attempt to pass upon the purpose of a proposed importation is fraught with difficulties and the procedure is hard to defend from a biological viewpoint.

Delayed Release

The prescribing of purposes for which materials could be imported under regulation 14* led, despite lack of specific legal authority, to an effort to force utilization of the imports for the purposes for which their entry was authorized. With various modifications as to form (i.e., bond, liability agreement, and stipulation), applicants for permits have been required, since July 28, 1919, to sign an agreement that their proposed imports would be grown under specified conditions for varying periods, to give the Department opportunity to determine whether the permittees are complying with the utilization requirements and for further inspection to determine apparent freedom from pests not detected at the time of the entry examination. Importers of special permit material are still required to sign agreements to hold their imports for a period of at least two years despite the fact that the Plant Quarantine Act does not provide for any control over importations after they have been entered, inspected, and have reached destination.

Horticultural Qualifications to Import

Intertwined with efforts to restrict importations under regulation 14* to those for approved purposes, was the concomitant feature of selecting those applicants who should be approved to receive permits to import for those approved purposes. The applicants formerly had to demonstrate their experience as growers of the types of plants they desired to import and to show that they had ample facilities for caring for the proposed imports in order for the Department to determine their horticultural qualifications. Under such a system, commercial propagators had a great advantage over amateurs and most of the importations were made by importers in the former class. The effect of this feature of administration, coupled with the effects of other features herein under discussion, tended to foster importations by commercial interests and to discourage importations by the non-commercial interests which would have difficulty in demonstrating the necessary qualifications.

* See footnote, page 1.

Plant Availability

In line with the general policy of excluding pests by excluding plants, efforts were also made to designate which varieties of plants to approve for entry under regulation 14* "for the purpose of keeping the country supplied with new varieties and necessary propagating stock." Again the Department was faced with an insuperable problem -- that of designating, with fairness to all, varieties it was unnecessary to import by reason of their plentiful occurrence in this country, and vice versa. A critical study of the results achieved in attempting to approve or disapprove varieties as essential to the horticultural development of this country failed to disclose any real accomplishment beyond a possible fostering of monopoly. One feature of this procedure involved the "rejection" of a variety -- i.e., refusal of permits for its further importation -- when someone within the Department should determine it to be sufficiently available. A limited group of growers could, under this proceeding, create a virtual monopoly in the domestic supply of such a variety to be broken only by the natural results of the sale and distribution of increase, and then possibly only after the benefits of the monopoly had ceased to exist.

Efforts to Correct the Situations Discussed

Quantity Limits. In an attempt to correct the inequities caused by the quantity limits established under regulation 14*, the Bureau of Entomology and Plant Quarantine, on October 18, 1937, informed importers of material covered by that regulation that it was considering a proposal to remove the quantity limits and allow each importer to import in quantities sufficient for his needs without resort to subterfuge. It was proposed that the only limitation to be placed on volume of importations would be that caused by the physical ability of the Bureau to inspect promptly and safeguard adequately. Comments were requested by November 15, 1937, and, as might be expected, some expressed themselves favorably and others protested. Some, apparently those who had built their businesses on the false basis of the trade-protection which our administrative procedure has afforded and still does afford, quickly appraised their insecure position and voiced opposition to any attempt to let down the bars to foreign pests (which of course has never been contemplated) -- to force them out of business through competition with cheap, foreign labor, etc. In other words, the Department is urged by many to continue to use the quarantine as a tariff rather than as it was intended to be used to keep pests out.

The quantity limitations, under regulation 3*, on stock from countries without official inspection systems, apply only in the sense that the importer himself determines how much he wants. Permits for such imports always specify an amount adequately large to cover the importer's desires as he indicated them in his application.

* See footnote, page 1.

Utilization. Almost any proposed utilization, except to import under regulation 14* for immediate resale, can be, and for the past four years has been, construed as falling under the head of one of the approved purposes. Consequently, no applications for permits are denied insofar as utilization is concerned, except, as noted above, those for special permits to import for immediate resale.

Delayed Release. Although it is sound biologically to make follow-up field inspections of certain classes of imported material, the re-inspection in the field of special permit importations is no longer practiced. The discontinuance of this practice has eliminated the pressure formerly exerted through this means to force compliance with the utilization requirements.

Horticultural Qualifications. The Department recognized, after brief experience with Quarantine No. 37, that in fairness to amateurs and other non-commercial interests they should be dealt with more leniently in the matter of the issuance of permits. Liberalizations in this respect culminated in 1934, at which time the Bureau discontinued entirely the feature of administration whereby applicants for permits to import material covered by regulation 14* were required to establish their horticultural qualifications. Thus amateurs and commercial interests were placed upon the same footing in this respect.

Availability. Insofar as applications for permits are concerned, no requests are now denied on the basis of any variety listed being "available" in this country. For some time it has been the policy to consider any variety listed on the application as a "new variety" or "necessary propagating stock" unless it happens to be the subject of special quarantine action.

Problems Centering in the Regulations*

The comments to be made of the problems in the second group are less controversial than those just discussed. They follow, in the order named: (1) Unrestricted entry for food, medicinal, or manufacturing purposes, under regulation 2*; (2) inconsistencies in the degree of restriction on the entry of comparable commodities by reason of the accident of classification of entry status of these items, whereby they fall under either regulation 3* or regulation 14*; (3) embargoes declared in a technically insufficient manner or totally undeclared; (4) soil about plants; (5) notice of shipment and Federal inspection at the port of entry; and (6) the penalties prescribed by regulation 13*.

Unrestricted Entry Under Regulation 2*

Provision exists in regulation 2* for the entry, without permit or other compliance with the regulations of Quarantine No. 37, of plant products capable of propagation, when for medicinal, food, or manufacturing purposes, and for field, vegetable, and flower seeds, except those

* See footnote, page 1.

which are, or may later be made, the subject of special quarantine action. The only restriction on such importations is that they shall be free from soil. For lack of specific legal authority, no safeguards can be set up under the present quarantine to insure that material imported ostensibly for some such utilization, which in theory would involve relatively little pest risk, will not be propagated with the attendant increase of risk. For example, a class of seeds which might also be a food product but which is normally enterable under permit and subject to inspection and such fumigation or other treatment as might be required to rectify a seriously infested condition, would be eligible for entry for food purposes without any restriction, so long as it was not contaminated with soil. An unscrupulous importer could elect to make the importation under regulation 2* to avoid the costs to him of the treatment necessary to safeguard against the pest risk. Then, too, there is always the possibility that the entry of field, vegetable, and flower seeds may constitute pest risk which can only be determined by inspection. To illustrate, sweet pea and vetch seeds were placed under the permit and inspection requirements on August 1, 1936, since it had been determined that they were subject to infestation with certain seed weevils. The evidence necessary for this determination was not acquired as the result of examinations made at the time of entry of these seeds, because at that time they were exempt from inspection by regulation 2*, but from examinations made of the imported seed after it had entered into domestic commerce. This situation can be adjusted by rewriting the regulations to eliminate this provision for unrestricted entry in such manner that foreign commercial intercourse will not be unduly hampered.

Rose Importations

One of the most apparent, and in some respects unjustified, inconsistencies to be found in the regulations supplemental to the quarantine lies in the fact that regulation 3* provides for the entry of rose stocks without limitation as to quantity and utilization, while finished roses, bud sticks, and cuttings are, in accordance with the language of regulation 14*, restricted to limited quantities for specified purposes. Doubtlessly the situation grew out of the original intention of eventually excluding plants not essential to American horticulture. Those familiar with the subject of rose importations will recall the original plan was to exclude rose stocks for pest-risk reasons. Because of purported temporary horticultural difficulties in the domestic production of satisfactory rose stocks, their unlimited entry was represented to be a horticultural necessity. On the other hand, by various means already discussed, importations of finished roses, bud sticks, and cuttings are restricted to a marked degree. Latest reports show that 6,374,790 rose stocks were imported during the fiscal year which ended on June 30, 1937, while only 10,631 rose plants, cuttings, and bud sticks were imported during the same period under regulation 14*. It seems illogical to believe that rose stocks, in many cases from the same general areas as the

* See footnote, page 1.

finished plants, are so materially different, from a strictly pest-risk standpoint, that their unlimited entry can be made with such comparative safety, while the entry of the finished plants must be so carefully supervised. Restrictions on the entry of rose propagating material should be more nearly uniform, whether the imported material is in the form of stocks, finished plants, cuttings, or bud sticks.

Bulb Importations

Another inconsistency, in some respects comparable to that already discussed for roses, is the situation existing whereby certain bulbs are accorded entry in unlimited quantities under regulation 3* and others are restricted, both as to quantity and as to subsequent utilization, by the provisions of regulation 14*. Mention is specifically made of bulbs such as narcissus and hyacinth, which fall under the former regulation, and iris and gladiolus, which are under the latter. There are insects, plant diseases, etc., of various kinds found on these bulbs that are peculiar to each, as well as others which may be common to all four, but during the eighteen years that Quarantine No. 37 has been in force, almost no pests of material importance to the bulb industry have been found repeatedly on the bulbs mentioned that would justify continued stringent restrictions on their entry. The principal exception to this statement, and that is subject to debate, is the bulb nematode, which is of record as occurring in all four kinds mentioned. Although it is contended by some that there is a racial difference between the bulb nematode which infests narcissus and the bulb nematodes infesting the other three bulbs, the organisms bear the same scientific name and cannot be distinguished under the microscope one from the other. Yet we have the situation of the bulb industry demanding unlimited entry for hyacinths, entry subject to hot-water treatment for narcissus, and entry restricted as to quantity and use for iris, with even greater restriction as to quantity being currently demanded for gladiolus. Some would also have iris treated as a condition of entry because iris is at times infested with the bulb nematode, although the same persons will not admit it to be the same so-called "race" of the bulb nematode as that infesting narcissus, for which treatment on entry is required, and apparently they will not admit it to be the same so-called race infesting hyacinths, for which they do not want a treatment as a condition of entry. It is submitted that, from the pest-risk standpoint alone, there is no reason why one class of bulbs should be unlimited as to quantity and utilization and the other group limited. There is no reason why a bulb subject to infestation by an organism should be treated, while another bulb should not be treated, although the latter is subject to infestation by an organism which science cannot distinguish readily, if at all, from that infesting the bulb which is treated.

Embargoes Under Quarantine No. 37

As previously indicated, there is provision in the Act for the Secretary of Agriculture to bring about the exclusion of a plant for

* See footnote, page 1.

pest-risk reasons and the procedure to be followed is prescribed. The hearing held May 28, 1918, to consider the necessity for the restrictions or prohibitions later embodied in Quarantine No. 37, was considered as the legally required forerunner of the embargoes not originally a part of, but now appearing in, regulation 3*. In that regulation, it is stated that fruit and nut stocks may not be imported under permit or otherwise, that mango seeds may not be imported except from the countries of North, Central, and South America, and the West Indies, and that all seeds enterable under that regulation shall be free of pulp. The latter implies an embargo against seeds in pulp.

In addition, unpromulgated embargoes are enforced under regulation 3*, as well as similar administrative prohibitions under regulations 14 and 15*, for certain materials under certain conditions. The action taken in this respect may be incontestably sound from a biological standpoint but legally these administrative embargoes are not enforceable because of the fact that the Department has never felt the items concerned as of sufficient importance to enough people to justify a public hearing and a quarantine promulgation in each case. It is believed that the prohibitions enforced administratively either should be made the subject of legally promulgated embargoes or should be dropped, and it is also believed that the embargoes referred to as occurring in regulation 3* have no place in a regulation but should be placed in a formal quarantine notice.

Plants in Soil

Regulation 7* requires that all nursery stock and other plants and seeds offered for import must be free from soil, such soil to be removed from about plant roots by washing or other means. It is provided that this requirement shall not apply to Canadian plants imported from the Dominion, which are standard or native products of that country. Provision also exists for the use, under certain conditions, of steril or sterilized soils as packing materials. The general requirement of freedom from soil is a sound pest-protection measure. That statement is conclusively proved by the Department's experience with destructive plant pests which became established in this country as the result of importations of propagating material in soil prior to the promulgation of the requirement.

The exception noted in the case of plants produced in and shipped from Canada seemed to have originated as the result of the following considerations: (1) The biologically similar situation of the two contiguous countries; (2) the comparatively colder climates of Canada would inhibit generally the development and establishment of soil-inhabiting insects which may be shipped there in soil from climates warmer than those of Canada; and (3) the fact that, under the procedures developed and now existing for the administration of the quarantine, considerable limitations are placed against the entry into the United States of plants

* See footnote, page 1.

first imported into Canada and merely held there for a time prior to offering them for entry into this country. If the restrictions on the entry of plants were simply those for pest-protection, plants imported directly from abroad, and from abroad via a brief sojourn in Canada, would be considered as in the same category. The question then arises as to whether the requirement as to freedom from soil should not apply to all countries, including Canada, because the Dominion government, for reasons unquestionably satisfactory to it, places no restrictions on the entry of soil about plant roots.

Notice of Shipment and Inspection

When the Plant Quarantine Act was passed in 1912, a Federal agency, which is now a part of the Bureau of Entomology and Plant Quarantine, was created for the administration of the Act. It was contemplated that reliance would be placed generally in the inspection and certification of importations which would usually be made before the shipments were forwarded to this country, and that such reinspection as might be necessary would be performed by State inspection officials when the shipments had arrived at destination. Accordingly the Act provided for the submission, through the Secretary of the Treasury, of a notice of the arrival of the shipment at the port of entry. Immediately upon entry, and before removal of the shipment from the port, a second notice, or notice of shipment, was to be submitted by the importer or his agent by means of which the State inspection official would be informed of the importation, and that the shipment was proceeding to his State, thus enabling him to arrange for its examination. Interstate movement of imported stock was prohibited unless like notices of shipment were submitted, unless or until the importation had been inspected by the State official. By the time Quarantine No. 37 was promulgated experience had shown that despite foreign inspection and certification pests were arriving in this country with foreign nursery stock. A small force of Federal inspectors stationed at principal maritime ports had been attempting to cope with the situation by making preliminary examinations before the shipments proceeded to destination. This examination was made primarily to determine that the shipments were properly certified by foreign inspection officials and that they did not include prohibited plants, with such superficial inspection as time would permit.

Regulations 10 and 11* of the quarantine not only embodied the requirements of the Act as to notices of arrival and shipment but regulation 8*, in the revision of the regulations effective April 5, 1923, made provision for Federal inspection of importations of nursery stock at the port of entry as a preliminary to the final inspection at destination.

Regarding the notices, the requirements of regulations 10 and 11* contain certain administratively useful provisions in addition to the requirements of the Act. The language of regulation 11* indicates clearly

* See footnote, page 1.

the interpretation, which has prevailed, of the language of the Act providing for State inspection of imported nursery stock at destination; viz, the removal from the port of entry and interstate movement of a shipment of imported nursery stock is conditioned upon the submission of a notice of shipment and a similar notice for each reshipment until the importation has been inspected by a proper State official. The Department, by administrative action on March 23, 1921, made the submission of the notice of shipment one of the conditions of entry. A careful study of the language of the Act leads to the more recent interpretation that a notice of shipment is required immediately after physical entry and before the removal of the shipment from the port of entry, and makes either the submission of such a notice or State inspection -- not necessarily both -- a condition of interstate movement of imported nursery stock.

Penalties

Regulation 13* provides for the cancellation of permits and refusal of further permits for the importation of the products of any grower or exporter who violates the Plant Quarantine Act or regulations promulgated thereunder, or for the importation of products from countries whose official inspection is found to be perfunctory, or for importations by a permittee who fails to give the required notice, or who mislabels any shipment to evade the provisions of the Act or regulations made under the Act. Section 10* of the Act provides for punishment by fine or imprisonment, upon conviction, of a violation of its provisions, but does not provide for punishment by cancellation of permits or refusal of permits, nor for the summary determination of violation as contemplated by the language of regulation 13*. That regulation is, therefore, without force, and should be eliminated.

Possible Quarantine Revision

Although benefit may at times derive solely from the critical tearing down of a structure more can be derived from offering considered suggestions for a structure to replace the one demolished. The question logically following "What is wrong with Quarantine No. 37?" is "What should be done to Quarantine No. 37 to make it a sound, workable instrument designed, consonant with the aim of the Plant Quarantine Act, to prevent the entry of pests and to facilitate the entry of plants?" The following suggestions are offered for consideration by those interested and take into account the critical studies just covered.

A quarantine like Quarantine No. 37, which attempts to cover all nursery stock, other plants, seeds, and plant products for, or capable of, propagation, that are not covered by other specific quarantines, should be as broad as obviously intended. To be readily usable by all without

* See footnote, page 1.

resort to specialists for interpretation, it should be simple and understandable. It should be written fairly in accordance with the Act of Congress from which its authority emanates. Finally and most important, it should have for its sole purpose the prevention of the entry of pests and the facilitation of the entry of plant products, when safety permits. To make Quarantine No. 37 conform with this ideal would require a revision of the notice of quarantine itself and the redrafting of the present regulations*, and both of these after a public hearing at which any interested party might appear and be heard either in person or by attorney, as provided for by the Act.

The revised quarantine notice could be in two parts, the first written under that section of the Act which authorizes the Secretary of Agriculture to bring about the complete exclusion of plants and plant products to prevent the introduction of pests. The second part would be written under that portion of the Act which regulates the entry of nursery stock and other plants and plant products by providing for an import permit, inspection and certification as to apparent freedom from pests by an official of the country from which the importation is made, etc.

In the first section could be placed: Those items of nursery stock and other plants, seeds, etc., which are now prohibited entry by special quarantines such as No. 12, excluding avocado seeds on account of the avocado weevil; No. 19, excluding citrus nursery stock on account of citrus canker; prohibitions on the entry of seeds in pulp on account of fruit flies, fruit and nut stocks on account of several known insect pests, and mango seeds on account of the mango weevil, as now appear in regulation 3* of the present quarantine; and, lastly, such embargoes as are not now promulgated but are administratively enforced by the simple procedure of denying permits for the entry of certain plants and plant products under regulations 3, 14, and 15*. This action would afford an opportunity for the redetermination of the present need for promulgated embargoes now existing which affect nursery stock, and a reexamination of the need for those prohibitions now administratively enforced.

Under the second section of the rewritten quarantine should be placed those plants and plant products the entry of which should be regulated (i.e., entered under permit subject to inspection and certification in the country of origin and reinspected in the United States, etc.) in order that the pest-safeguards to American Agriculture originally contemplated by the Act can be effectively maintained. That there should later be no misunderstanding of the scope of this quarantine it should be specifically mentioned therein that, except as covered by other quarantines, it covers all nursery stock as defined in the Act and all other plants, seeds, and plant products not now covered by specific quarantines, including algae, lichens, liverworts, mosses, ferns, and higher plants, cut flowers and fresh or dried decorative plant material, fresh or dried

* See footnote, page 1.

material for food, manufacturing, or herbarium purposes, and it might well include logs, lumber, and timber, with or without bark adhering, and vegetable matter in soil.

The foregoing represents one method which could be employed. An alternative plan would involve writing prohibitory quarantines excluding certain plants and plant products because of definite pests, as has already been done in the case of avocado seeds because of the avocado weevil and citrus nursery stock because of citrus canker, etc. The regulatory features as discussed above would then become the subject of a separate promulgation which would not contain any exclusion features.

The proposed regulations supplemental to the quarantine should be drafted with a view to assisting the importer to an understanding of the purpose of the quarantine and its provisions for entry, as well as to facilitate equitable administration.

material for food, construction, or domestic purposes, and is not
technically a food, but it is a food in the sense that it is
vegetable matter in soil.

The above is a summary of the results of the investigation
conducted by the author, and it is hoped that it will be of
some value to those who are interested in the subject of
vegetable matter in soil. The results of the investigation
show that vegetable matter in soil is not a food in the
technical sense, but it is a food in the sense that it is
vegetable matter in soil.

The above is a summary of the results of the investigation
conducted by the author, and it is hoped that it will be of
some value to those who are interested in the subject of
vegetable matter in soil. The results of the investigation
show that vegetable matter in soil is not a food in the
technical sense, but it is a food in the sense that it is
vegetable matter in soil.